HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION NO. 12213 OF 2007

DATE: 18.06.2007

BETWEEN

1. The Managing Committee, Masjid-e-Quboor, Ameerpet, Hyderabad

….Petitioner

AND

1. Andhra Pradesh State Wakf Board, rep. By its Chief Executive Officer, Haj House Building, Nampally, Hyderabad.

…. Respondents

HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION NO. 12213 OF 2007

ORAL ORDER:

The petitioner is the Managing Committee of Masjid-e-Quboor, Ameerpet, Hyderabad, (for short 'the Wakf'). The Committee came to be appointed by the first respondent- Wakf Board, for a period of two years through proceedings dated 12.6.2005. One month before the expiry of the term, the first respondent extended the term of the Committee by one year, i.e., up to 11.6.1008.

It appears that the first respondent received certain complaints as regards the functioning of the petitioner-committee. An inspection/enquiry was caused, as to the functioning of the petitioner committee. A report dated 31.5.2007 is said to have been received from the in-charge of Task Force and Project Officer. The first respondent superceded the petitioner committee vide proceedings dated 7.6.2007. The same is challenged in this Writ Petition.

Sri Abdul Muqeeth Qureshi, the learned counsel for the petitioner submits that the impugned order is contrary to Section 67(2) of the Wakf Act and violative of principles of natural justice. He contends that the petitioner was not informed of the allegation made against them and there is absolutely no legal or factual basis for the impugned order.

Mr. Abdul Nazibkhan, learned counsel for the first respondent submits that the supercession took place only after due verification of facts and on the basis of the report submitted

by a responsible officer, keeping in view the interest of the wakf. He contends that the petitioner-Committee does not have any vested right to continue in the Management and it is always in the discretion of the first respondent to appoint or discontinue the Committee.

Sri Syed Shareef, learned counsel appearing for the second respondent submits that misdeeds of the
Committee in the administration of the Wakf came to be established in the enquiry and in the inspection, no exception be taken to the impugned order.

The Act confers upon the first respondent, to appoints committees, to the registered Wakfs, whenever such an institution is not under the administration and management of a recognized Mutavalli. The Wakf in question, used to be under the administration of an elected committee. For the one reason or the other, the elections could not be held for the past several years. With a view to ensure proper Management of the Wakf, the first respondent appointed the petitioner-Managing Committee for a period of two years through orders dated 11.6.2005. Thereafter, the term was extended by one year vide proceedings dated 9.5.2007.

Section 67 of the Act empowers the first respondent to supercede the management of wakf if it is satisfied that any acts of mismanagement have taken place. The proviso to sub section (2) of Section 67 however, mandates that before any committee is superceded, it must be put on notice. Apart from the requirement under this provision, the issuance of notice to a Committee before it is superceded; is a requirement under the principles of natural justice. It is no doubt true that the first respondent called for a

report as regards the management of the Wakf by the Petitioner. In case it found any basis in the report for supercession of the Committee, it ought to have furnished a copy of the report and issued a show-cause notice, to the petitioner. It has not chosen to do so. On this short ground, the impugned order is liable to be set aside.

Accordingly, the Writ Petition is allowed and the impugned order is set aside. It is left open to the first respondent to pass fresh order in accordance with law, duly issuing notice to the petitioner. There shall be no order as to costs.

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L. NARASIMHA REDDY, J

Date: 18.06.2007
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